

CASE NO.: **FAO NO.560 OF 1987**

MRS. INDIRA VATI GUPTA & OTHER ...APPELLANTS

STATE OF HARYANA AND OTHERS ...RESPONDENTS

PRESENT: MR. DEEPAK SURI, ADVOCATE FOR THE APPELLANTS.
MR. ASHISH KAPOOR, ADDL.A.G., HARYANA.
MR. S.S. AULAKH, ADVOCATE
FOR THE INSURANCE COMPANY.

The appellants Mrs. Indira Vati Gupta and others have filed the present appeal against the judgement of Motor Accident Claims Tribunal, Ambala (for short 'the Tribunal') dated 30.1.1987, by which compensation of Rs.1,95,000/- only has been awarded to them on account of death of Ghanshyam Gupta who died in a motor accident.

Briefly the facts of the case are that on 25.10.1985, Ghanshyam Gupta was travelling in a Haryana Roadways bus bearing No.HRX-1606. She boarded the bus from Chandigarh at about 4.45 A.M. and was going to Delhi. At about 5.40 A.M. when the bus reached near the Oberoi Petrol Pump in Ambala City and as soon as it crossed a small bridge, a truck being driven by Gurpal Singh came from the opposite side and dashed against the

bus on its right hand side. As a result of the accident, the bus overturned and fell in ditch on the side of the road and Ghanshyam Gupta, died on spot.

The appellants, who are the wife and minor son for the deceased Ghanshyam Gupta filed a claim petition claiming a compensation of Rs.6,00,000/- on account of death of Ghanshyam Gupta.

Reply was filed on behalf of the State of Haryana, wherein it was averred that the accident took place because of the rash and negligent driving of the driver of the truck, namely, Gurpal Singh.

A separate written statement was filed by the driver of the truck, who stated that the accident took place because of the rash and negligent driving by the bus driver. He, however, admitted the accident.

Before the Tribunal, the question was whether the accident took place because of the rash and negligent driving of the driver of the truck No.PJV-3090, driven by Gurpal Singh or by the rash and negligent driving of the driver of the bus bearing No.HRX-1606 driven by Ranbir Singh. One of the claimants Satish Kumar, who appeared as PW-14, stated that the accident took place because of the rash and negligent driving of the truck driver. However, Girdhari Lal, PW3 and Vinod Kashyap, PW10, deposed that the accident took place because of the rash and negligent driving of the drivers of both the vehicles as the bus as well as the truck were being driven in a rash and negligent manner.

No cogent evidence was led by the drivers of the bus as well as the truck. The Tribunal found that accident took place because of the rash and composite negligence of drivers of both the offending vehicles.

A perusal of the testimonies of the eye witnesses who are travelling in the bus, namely, Satish Kumar, Girdhari Lal, Vinod Kashyap

make is abundantly clear that the accident took place because of the rash and negligent driving of drivers of both the truck as well as the bus. Thus, I uphold the findings of the Tribunal.

It was averred that the deceased was 33 years old and was practicing as an Advocate at Shimla. It was averred that the deceased was earning a sum of Rs.3000/- per month out of which he was contributing a sum of Rs.250/- per month towards household expenses. The deceased was married and had one minor son. It was averred that the deceased was a up coming advocate and his practice would have obviously increased due to passage of time. It was further averred that the deceased was also working as a junior to Sh. Devinder Gupta, a leading advocate who was paying a sum of Rs.2000/-. The deceased had been practicing as an advocate for more than 7 years.

Keeping in view the fact that the deceased Ghanshyam Gupta was doing independent practice in the High Court and was also assisting a very senior advocate, therefore, the income as assessed by the Tribunal as Rs.2000/- is on the lower side. It is known fact that income of advocates increase substantially by the passage of time and in this view of the matter, I determine the income of the deceased to be Rs.3000/- per month. As the deceased was having a wife and a minor son as his dependents, therefore, I deduct 1/3rd as personal expenses and thus, determine the dependency of the claimants to be Rs.2000/- per month i.e., Rs.24,000/- per annum. As the deceased was 33 years of age at the time of his death, therefore, it would be appropriate to apply a multiplier of 17 and thus, the claimants are held entitled to a compensation of Rs.4,08,000/- on account of death of the deceased. The claimants are also held entitled to Rs.5000/- for funeral

expenses and another sum of Rs.1,00,000/- for loss of consortium. This amount is being awarded because the deceased has left behind a very young widow and a minor child. As a result of the aforementioned discussion, the claimants are held entitled to a total compensation of Rs.5,13,000/-. The claimants shall also be entitled to interest at the rate of 8% per annum payable from the date of filing the claim petition till realization.

The insurance company as well as the State of Haryana are held jointly and severally liable to pay the compensation.

The appeal stands disposed of in the above terms.

September 6, 2006
Gulati

(ASHUTOSH MOHUNTA)
JUDGE